

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED REEVES,

Plaintiff,

Case No. 1:06-cv-896

v.

HONORABLE PAUL L. MALONEY

BASIL WOLEVER,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation (Dkt. No. 110) filed by United States Magistrate Judge Ellen S. Carmody in this action. The Report and Recommendation mailed to the Plaintiff was returned to the Court marked “forwarding time expired”. A check of the Michigan Department of Corrections Offender Tracking Information System shows plaintiff as discharged from custody.

Even though the Plaintiff has not received a copy of the Report and Recommendation, Plaintiff has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to the Plaintiff at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to the Plaintiff’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current

address. *See* W.D. Mich. L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for dismissal for want of prosecution.”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has ten days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.* *See also Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit’s practice). No objections have been filed to date.

Although the Plaintiff’s failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge’s reasoning and conclusions sound.

Accordingly, **IT IS HEREBY ORDERED:**

1. The Report and Recommendation (Dkt. No. 110) is **ADOPTED** as the Court’s opinion;
2. The plaintiff’s complaint is **DISMISSED** for the reasons stated in the Report and Recommendation.

This action is terminated.

Date: January 14, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge